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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/646,367	08/22/2003	Michael J. Bricco	093395-9005-00	8650
23409	7590	05/04/2005	EXAMINER	
MICHAEL BEST & FRIEDRICH, LLP 100 E WISCONSIN AVENUE MILWAUKEE, WI 53202			CHIN, PETER	
			ART UNIT	PAPER NUMBER

1731

DATE MAILED: 05/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/646,367

Applicant(s)

BRICCO ET AL.

Examiner

Peter Chin

Art Unit

1731

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 21 January 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-45 is/are pending in the application.
- 4a) Of the above claim(s) 22-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-21 and 27-45 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 August 2003 is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 4/29/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-21, 27-45 are rejected under 35 U.S.C. 103(a) as being unpatentable over Malashenko et al (4,648,943).

The claimed elements read on Malashenko et al's vibrating forming shoe as follows: the at least one vibration-inducing mechanism reads on vibrating mechanism (15); vibration head corresponds to shoe (12); vibrational element reads on vibrator (46). It is obvious that in view of the position of the air bags, which is between shoe (12) (vibration head) and its support member (28) that it serves as a dampener especially since it is used to adjust the spring constant (column 3, lines 1-4).

Claims 6-13, 31-37,40-45 are deemed to be matters of obvious construction based on material (elastomeric material for the air bags), mounting, width of the desired papermaking machine.

Claims 14,15,38 and 39 it would have been obvious provide an automatic control system to control the frequency of the vibration inducing mechanism since the dewatering and formation is dependent upon the frequency, columns 1 and 2 of Malashenko et al.

Claims 16 and 40, the use of pneumatically powered vibration-inducing mechanism would have been obvious as it is well known in the art as is further evidenced by Applicant's acknowledgement on page 22 of the present specification.

2. Claims 27,31,37-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Berry (1,841,702).

Berry shows a vibrator for the forming wire of a paper machine. Vibrator (15) is coupled to a board (11) that supports wire (12). Three vibratos are shown in Figure 2. The claims by virtue of claim language "comprising" are open to the third vibrator. In any case, it would have been obvious to use two as it would depend on the width of the papermaking machine. The claimed vibrational element reads on board (11); first and second vibration-inducing mechanism reads on the first two vibrators (15). The first support reads on angle iron (17) that secures and supports board (11) and the second support reads on the second angle iron (17) that secures and supports board (11).

Claim 37: Figure 4 shows that the vibrator is individually adjustable.

Claims 38 and 39; it would have been obvious to use automatic control since automatic feed back control is well known in the art.

3. Claims 1-21,27-45 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 10-28 of U.S. Patent No. 6,702,925. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present application are broader and generic to the claims of the patent. Thus, the claimed invention obviously reads on the invention claimed in the patent.

4. Claims 1-21, 27-45 are provisionally rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 1-8,19-26 of copending Application No. 10/770,142. Although the conflicting claims are not identical, they are not patentably distinct from each other because the claims of the present

application are broader and generic to the claims of the patent. Thus, the claimed invention obviously reads on the invention claimed in the patent..


This is a provisional obviousness-type double patenting rejection because the conflicting claims have not in fact been patented.

5. Claims 22-26 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected invention, there being no allowable generic or linking claim. Election was made **without** traverse in the reply filed on 1/21/2005.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Peter Chin whose telephone number is (571) 272-1186. The examiner can normally be reached on Monday through Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Steven Griffin can be reached on (571) 272-1189. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Peter Chin
Primary Examiner
Art Unit 1731